

104TH CONGRESS
1ST SESSION

H. R. 8

To amend the Social Security Act to increase the earnings limit, to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on social security benefits and to provide incentives for the purchase of long-term care insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. BUNNING, Mr. HASTERT, Mrs. KELLY, and Mrs. THURMAN (for themselves, Mr. WICKER, Mr. HOKE, Mr. FRISA, Mr. MCINTOSH, Mr. SHADEGG, Mrs. JOHNSON of Connecticut, Mr. CHRYSLER, Mr. CUNNINGHAM, Mr. CANADY, Mr. MCCOLLUM, Mr. SHAYS, Mr. BARTON of Texas, Mr. GILLMOR, Mr. BARR, Mr. ARMEY, Mr. FORBES, Mr. HORN, Mrs. WALDHOLTZ, Mr. TATE, Ms. DUNN of Washington, Mr. MICA, Mr. MCHUGH, Mr. CRANE, Mr. DORNAN, Mr. BACHUS, Mr. SMITH of Texas, Mr. WELDON of Pennsylvania, Mr. OXLEY, Mr. ROHRABACHER, Ms. DANNER, Mr. SAXTON, Mr. KIM, Mr. BALLENGER, Mr. CALLAHAN, Mr. TALENT, Mr. BAKER of Louisiana, Mr. SCHAEFER, Mr. FILNER, Mr. CRAPO, Mr. KOLBE, Mr. HALL of Texas, Mr. PAXON, Mr. THOMAS, Mr. COMBEST, Mr. COBLE, Mr. EHRLICH, Mrs. MEYERS of Kansas, Mr. YOUNG of Florida, Mr. GOSS, Mr. STOCKMAN, Mr. SMITH of Michigan, Mr. COX, Mr. STEARNS, Mr. BAKER of California, Mr. SHAW, Mr. HERGER, Mr. HEINEMAN, Mr. HANCOCK, Mr. SENSENBRENNER, Mrs. FOWLER, Mr. GREENWOOD, Mr. ZIMMER, Mr. LINDER, Mr. HUTCHINSON, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. HOSTETTLER, Mr. JONES, Mr. ENSIGN, Mr. SMITH of New Jersey, Mr. TIAHRT, Mrs. MYRICK, Mr. FRELINGHUYSEN, Mr. HOUGHTON, Mrs. CUBIN, Mr. KINGSTON, Mr. EWING, Mr. HASTINGS of Washington, Mr. GANSKE, Mr. WELDON of Florida, Mr. COBURN, Mr. LARGENT, Mr. WELLER, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. INGLIS of South Carolina, Mr. LIGHTFOOT, Mr. ISTOOK, Mr. CALVERT, Mr. HOBSON, Mr. CREMEANS, Mr. KNOLLENBERG, Mr. BILIRAKIS, Mr. HAYWORTH, Mr. FOX, Mr. GOODLING, Mr. RADANOVICH, Mr. ROTH, Mr. WAMP, Mr. GILCHREST, Mr. BLUTE, Mr. SOLOMON, Mr. DOOLITTLE, Mr. CAMP, Mr. UPTON, Mr. PACKARD, Mr. STUMP, Mr. EVERETT, Mr. GILMAN, Mr. MILLER of Florida, Mr. LATOURETTE, Mr. ROYCE, Mr. FLANAGAN, Mr. BURR, Mr. LATHAM, Mr. DAVIS, Ms. MOLINARI, Mr. GUNDERSON, Mr. THORNBERRY, Mr. RIGGS, Mr. PORTER, Mr. ALLARD, Mr.

CHRISTENSEN, Mr. GOODLATTE, Mr. HILLEARY, Mr. COOLEY, and Mr. BONO) introduced the following bill; which was referred as follows:

Titles I–III; referred to the Committee on Ways and Means

Title IV, referred to the Committee on the Judiciary

APRIL 3, 1995

Additional sponsors: Mr. TAYLOR of North Carolina, Mr. BARTLETT of Maryland, Mr. NUSSLE, Mr. CHABOT, Mr. BURTON of Indiana, Mr. NEY, Mr. NORWOOD, Mrs. VUCANOVICH, Mr. HUNTER, Mr. MANZULLO, Mr. LIVINGSTON, Mr. COLLINS of Georgia, Mr. SAM JOHNSON of Texas, Mr. WALKER, Mr. MOORHEAD, Mrs. SEASTRAND, Mr. McKEON, Mr. DREIER, Mr. ROBERTS, Mr. POMBO, Mr. SALMON, Mr. FIELDS of Texas, Mr. SOUDER, Mr. SPENCE, and Mr. GUTKNECHT

A BILL

To amend the Social Security Act to increase the earnings limit, to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on social security benefits and to provide incentives for the purchase of long-term care insurance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Senior Citizens’ Equity
 5 Act”.

TITLE I—SOCIAL SECURITY
EARNINGS TEST

SEC. 101. ADJUSTMENTS IN MONTHLY EXEMPT AMOUNT
FOR PURPOSES OF THE SOCIAL SECURITY
EARNINGS TEST.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR
INDIVIDUALS WHO HAVE ATTAINED RETIREMENT
AGE.—Section 203(f)(8)(D) of the Social Security Act (42
U.S.C. 403(f)(8)(D)) is amended to read as follows:

“(D)(i) Notwithstanding any other provision of
this subsection, the exempt amount which is applica-
ble to an individual who has attained retirement age
(as defined in section 216(1)) before the close of the
taxable year involved shall be—

“(I) for the taxable year beginning after
1995 and before 1997, \$1,250.00,

“(II) for the taxable year beginning after
1996 and before 1998, \$1,583.33¹/₃,

“(III) for the taxable year beginning after
1997 and before 1999, \$1,916.66²/₃,

“(IV) for the taxable year beginning after
1998 and before 2000, \$2,250.00, and

“(V) for the taxable year beginning after
1999 and before 2001, \$2,500.00.

1 “(ii) For purposes of subparagraph (B)(ii)(II),
 2 the increase in the exempt amount provided under
 3 clause (i)(V) shall be deemed to have resulted from
 4 a determination which shall be deemed to have been
 5 made under subparagraph (A) in 1999.”.

6 (b) CONFORMING AMENDMENT.—The second sen-
 7 tence of section 223(d)(4) of such Act (42 U.S.C.
 8 423(d)(4)) is amended by striking “the exempt amount
 9 under section 203(f)(8) which is applicable to individuals
 10 described in subparagraph (D) thereof” and inserting the
 11 following: “an amount equal to the exempt amount which
 12 would have been applicable under section 203(f)(8), to in-
 13 dividuals described in subparagraph (D) thereof, if section
 14 101 of the Senior Citizens’ Equity Act had not been en-
 15 acted”.

16 **SEC. 102. EFFECTIVE DATE.**

17 The amendments made by section 101 shall apply
 18 with respect to taxable years beginning after 1995.

19 **TITLE II—REPEAL OF INCREASE**
 20 **IN TAX ON SOCIAL SECURITY**
 21 **BENEFITS**

22 **SEC. 201. REPEAL OF INCREASE IN TAX ON SOCIAL SECU-**
 23 **RITY BENEFITS.**

24 (a) IN GENERAL.—Subsection (a) of section 86 of the
 25 Internal Revenue Code of 1986 (relating to social security

1 and tier 1 railroad retirement benefits) is amended by
 2 adding at the end the following new paragraph:

3 “(3) PHASEOUT OF ADDITIONAL AMOUNT.—In
 4 the case of any taxable year beginning in a calendar
 5 year after 1995 and before 2000, paragraph (2)
 6 shall be applied by substituting the percentage deter-
 7 mined under the following table for ‘85 percent’ each
 8 place it appears:

“In the case of a taxable year beginning in cal- The percentage is: endar year:	
1996	75 percent
1997	65 percent
1998	60 percent
1999	55 percent.”

9 (b) TERMINATION OF ADDITIONAL AMOUNT.—Para-
 10 graph (2) of section 86(a) of such Code is amended by
 11 adding at the end the following new flush sentence:

12 “‘This paragraph shall not apply to any taxable year
 13 beginning after December 31, 1999.’”

14 (c) CONFORMING AMENDMENT.—Subparagraph (A)
 15 of section 871(a)(3) of such Code is amended—

16 (1) by striking “85 percent” and inserting “50
 17 percent”, and

18 (2) by inserting before the last sentence the fol-
 19 lowing new flush sentence:

20 “‘In the case of any taxable year beginning in a cal-
 21 endar year after 1995 and before 2000, subpara-
 22 graph (A) shall be applied by substituting the per-

1 centage determined for such calendar year under
2 section 86(a)(3) for ‘50 percent’.”

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 1995.

6 **TITLE III—TREATMENT OF** 7 **LONG-TERM CARE**

8 **SEC. 301. TREATMENT OF LONG-TERM CARE INSURANCE** 9 **OR PLANS.**

10 (a) GENERAL RULE.—Subpart E of part I of sub-
11 chapter L of chapter 1 of the Internal Revenue Code of
12 1986 is amended by inserting after section 818 the follow-
13 ing new section:

14 **“SEC. 818A. TREATMENT OF LONG-TERM CARE INSURANCE** 15 **OR PLANS.**

16 “(a) GENERAL RULE.—For purposes of this part, a
17 long-term care insurance contract shall be treated as an
18 accident or health insurance contract.

19 “(b) LONG-TERM CARE INSURANCE CONTRACT.—

20 “(1) IN GENERAL.—For purposes of this part,
21 the term ‘long-term care insurance contract’ means
22 any insurance contract issued if—

23 “(A) the only insurance protection pro-
24 vided under such contract is coverage of quali-

1 fied long-term care services and benefits inci-
2 dental to such coverage,

3 “(B) such contract does not cover expenses
4 incurred for services or items to the extent that
5 such expenses are reimbursable under title
6 XVIII of the Social Security Act or would be so
7 reimbursable but for the application of a de-
8 ductible or coinsurance amount,

9 “(C) such contract is guaranteed renew-
10 able,

11 “(D) such contract does not have any cash
12 surrender value, and

13 “(E) all refunds of premiums, and all pol-
14 icyholder dividends or similar amounts, under
15 such contract are to be applied as a reduction
16 in future premiums or to increase future bene-
17 fits.

18 “(2) SPECIAL RULES.—

19 “(A) PER DIEM, ETC. PAYMENTS PER-
20 MITTED.—A contract shall not fail to be treated
21 as described in paragraph (1)(A) by reason of
22 payments being made on a per diem or other
23 periodic basis without regard to the expenses
24 incurred during the period to which the pay-
25 ments relate.

1 “(B) CONTRACT MAY COVER MEDICARE
2 REIMBURSABLE EXPENSES WHERE MEDICARE
3 IS SECONDARY PAYOR.—Paragraph (1)(B) shall
4 not apply to expenses which are reimbursable
5 under title XVIII of the Social Security Act
6 only as a secondary payor.

7 “(C) REFUNDS OF PREMIUMS.—Paragraph
8 (1)(E) shall not apply to any refund of pre-
9 miums on surrender or cancellation of the con-
10 tract.

11 “(c) QUALIFIED LONG-TERM CARE SERVICES.—For
12 purposes of this section—

13 “(1) IN GENERAL.—The term ‘qualified long-
14 term care services’ means necessary diagnostic, pre-
15 ventive, therapeutic, and rehabilitative services, and
16 maintenance or personal care services, which—

17 “(A) are required by a chronically ill indi-
18 vidual in a qualified facility, and

19 “(B) are provided pursuant to a plan of
20 care prescribed by a licensed health care practi-
21 tioner.

22 “(2) CHRONICALLY ILL INDIVIDUAL.—

23 “(A) IN GENERAL.—The term ‘chronically
24 ill individual’ means any individual who has

1 been certified by a licensed health care practi-
2 tioner as—

3 “(i) (I) being unable to perform (with-
4 out substantial assistance from another in-
5 dividual) at least 2 activities of daily living
6 (as defined in subparagraph (B)) for a pe-
7 riod of at least 90 days due to a loss of
8 functional capacity, or

9 “(II) having a level of disability simi-
10 lar (as determined by the Secretary in con-
11 sultation with the Secretary of Health and
12 Human Services) to the level of disability
13 described in subclause (I), or

14 “(ii) having a similar level of disabil-
15 ity due to cognitive impairment.

16 “(B) ACTIVITIES OF DAILY LIVING.—For
17 purposes of subparagraph (A), each of the fol-
18 lowing is an activity of daily living:

19 “(i) MOBILITY.—The process of walk-
20 ing or wheeling on a level surface which
21 may include the use of an assistive device
22 such as a cane, walker, wheelchair, or
23 brace.

1 “(ii) DRESSING.—The overall complex
2 behavior of getting clothes from closets
3 and drawers and then getting dressed.

4 “(iii) TOILETING AND BATHING.—
5 Each of the following shall be treated as 1
6 activity:

7 “(I) The act of going to the toilet
8 room for bowel and bladder function,
9 transferring on and off the toilet,
10 cleaning after elimination, and ar-
11 ranging clothes or the ability to volun-
12 tarily control bowel and bladder func-
13 tion, or in the event of incontinence,
14 the ability to maintain a reasonable
15 level of personal hygiene.

16 “(II) The overall complex behav-
17 ior of getting water and cleansing the
18 whole body, including turning on the
19 water for a bath, shower, or sponge
20 bath, getting to, in, and out of a tub
21 or shower, and washing and drying
22 oneself.

23 “(iv) TRANSFER.—The process of get-
24 ting in and out of bed or in and out of a
25 chair or wheelchair.

1 “(v) EATING.—The process of getting
2 food from a plate or its equivalent into the
3 mouth.

4 “(3) QUALIFIED FACILITY.—The term ‘quali-
5 fied facility’ means—

6 “(A) a nursing, rehabilitative, hospice, or
7 adult day care facility (including a hospital, re-
8 tirement home, nursing home, skilled nursing
9 facility, intermediate care facility, or similar in-
10 stitution)—

11 “(i) which is licensed under State law,
12 or

13 “(ii) which is a certified facility for
14 purposes of title XVIII or XIX of the So-
15 cial Security Act, or

16 “(B) an individual’s home if a licensed
17 health care practitioner certifies that without
18 home care the individual would have to be cared
19 for in a facility described in subparagraph (A).

20 “(4) MAINTENANCE OR PERSONAL CARE SERV-
21 ICES.—The term ‘maintenance or personal care serv-
22 ices’ means any care the primary purpose of which
23 is to provide needed assistance with any of the ac-
24 tivities of daily living described in paragraph (2)(B).

1 “(5) LICENSED HEALTH CARE PRACTI-
2 TIONER.—The term ‘licensed health care practi-
3 tioner’ means any physician (as defined in section
4 1861(r) of the Social Security Act) and any reg-
5 istered professional nurse, licensed social worker, or
6 other individual who meets such requirements as
7 may be prescribed by the Secretary.

8 “(d) TREATMENT OF COVERAGE PROVIDED AS PART
9 OF A LIFE INSURANCE CONTRACT.—Except as otherwise
10 provided in regulations prescribed by the Secretary, in the
11 case of any long-term care insurance coverage (whether
12 or not qualified) provided by rider on a life insurance con-
13 tract, this part shall be applied as if the portion of the
14 contract providing such coverage were a separate contract.

15 “(e) BENEFITS IN EXCESS OF \$200 PER DAY IN-
16 CLUDIBLE IN GROSS INCOME.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of this title, gross income includes the ag-
19 gregate amount of excess benefits received during
20 the taxable year under any long-term care insurance
21 contract.

22 “(2) EXCESS BENEFIT.—

23 “(A) IN GENERAL.—For purposes of para-
24 graph (1), the term ‘excess benefit’ means, with
25 respect to any day, the amount by which the

1 benefits received under a long-term care insur-
2 ance contract for such day exceed \$200.

3 “(B) CONTRACTS NOT AGGREGATED IN AP-
4 PLYING LIMIT.—Subparagraph (A) shall be ap-
5 plied separately with respect to each long-term
6 care insurance contract.

7 “(3) INFLATION ADJUSTMENT OF \$200 BENE-
8 FIT LIMIT.—

9 “(A) IN GENERAL.—In the case of a cal-
10 endar year after 1995, the \$200 amount con-
11 tained in paragraph (1) shall be increased for
12 such calendar year by the medical care cost ad-
13 justment for such calendar year. If any increase
14 determined under the preceding sentence is not
15 a multiple of \$10, such increase shall be round-
16 ed to the nearest multiple of \$10.

17 “(B) MEDICAL CARE COST ADJUST-
18 MENT.—For purposes of subparagraph (A), the
19 medical care cost adjustment for any calendar
20 year is the percentage (if any) by which—

21 “(i) the medical care component of
22 the Consumer Price Index (as defined in
23 section 1(f)(5)) for August of the preced-
24 ing calendar year, exceeds

1 “(ii) such component for August of
2 1994.”

3 (b) RESERVE METHOD.—

4 (1) Subparagraph (A) of section 807(d)(3) of
5 such Code is amended by redesignating clause (iv)
6 as clause (v) and by inserting after clause (iii) the
7 following new clause:

8 “(iv) LONG-TERM CARE INSURANCE
9 CONTRACTS.—In the case of any long-term
10 care insurance contract, a 1-year full pre-
11 liminary term method.”

12 (2) Clause (v) of section 807(d)(3)(A) of such
13 Code, as redesignated by paragraph (1), is amended
14 by striking “or (iii)” each place it appears and in-
15 serting “(iii), or (iv)”.

16 (3) Clause (iii) of section 807(d)(3)(A) of such
17 Code is amended by inserting “(other than a long-
18 term care insurance contract)” after “insurance con-
19 tract”.

20 (c) CONTINUATION COVERAGE EXCISE TAX NOT TO
21 APPLY.—Subsection (f) of section 4980B of such Code is
22 amended by adding at the end the following new para-
23 graph:

24 “(9) CONTINUATION OF LONG-TERM CARE COV-
25 ERAGE NOT REQUIRED.—A group health plan shall

1 not be treated as failing to meet the requirements of
 2 this subsection solely by reason of failing to provide
 3 coverage under any long-term care insurance con-
 4 tract (as defined in section 818A).”

5 (d) CLERICAL AMENDMENT.—The table of sections
 6 for subpart E of part I of subchapter L of chapter 1 of
 7 such Code is amended by inserting after the item relating
 8 to section 818 the following new item:

“Sec. 818A. Treatment of long-term care insurance or plans.”

9 **SEC. 302. EXCLUSION FOR BENEFITS PROVIDED UNDER**
 10 **LONG-TERM CARE INSURANCE; EXCLUSION**
 11 **FOR EMPLOYER-PROVIDED COVERAGE.**

12 (a) IN GENERAL.—Subsection (a) of section 104 of
 13 the Internal Revenue Code of 1986 (relating to compensa-
 14 tion for injuries or sickness) is amended by striking “and”
 15 at the end of paragraph (4), by striking the period at the
 16 end of paragraph (5) and inserting “, and”, and by insert-
 17 ing after paragraph (4) the following new paragraph:

18 “(6) benefits under a long-term care insurance
 19 contract (as defined in section 818A(b)).”

20 (b) EXCLUSION FOR EMPLOYER-PROVIDED COV-
 21 ERAGE.—Section 106 of such Code (relating to contribu-
 22 tions by employer to accident and health plans) is amend-
 23 ed by adding at the end thereof the following sentence:
 24 “For purposes of the preceding sentence, the term ‘acci-
 25 dent or health plan’ includes a long-term care insurance

1 contract (as defined in section 818A(b)) but only to the
2 extent that the aggregate of the benefits under such con-
3 tracts provided by the employer with respect to coverage
4 of an individual does not exceed the limitation applicable
5 under section 818A(e)(2) (determined without regard to
6 subparagraph (B) thereof).”

7 **SEC. 303. QUALIFIED LONG-TERM CARE SERVICES TREAT-**
8 **ED AS MEDICAL CARE.**

9 (a) GENERAL RULE.—Paragraph (1) of section
10 213(d) of the Internal Revenue Code of 1986 (defining
11 medical care) is amended by striking “or” at the end of
12 subparagraph (B), by redesignating subparagraph (C) as
13 subparagraph (D), and by inserting after subparagraph
14 (B) the following new subparagraph:

15 “(C) for qualified long-term care services
16 (as defined in section 818A(c)), or”.

17 (b) TECHNICAL AMENDMENTS.—

18 (1) Subparagraph (D) of section 213(d)(1) of
19 such Code (as redesignated by subsection (a)) is
20 amended by striking “subparagraphs (A) and (B)”
21 and inserting “subparagraphs (A), (B), and (C)”.

22 (2)(A) Paragraph (1) of section 213(d) of such
23 Code is amended by adding at the end thereof the
24 following new flush sentence:

1 “In the case of a long-term care insurance contract
 2 (as defined in section 818A), only eligible long-term
 3 care premiums (as defined in paragraph (10)) shall
 4 be taken into account under subparagraph (D).”

5 (B) Subsection (d) of section 213 of such Code
 6 is amended by adding at the end the following new
 7 paragraph:

8 “(10) ELIGIBLE LONG-TERM CARE PRE-
 9 MIUMS.—

10 “(A) IN GENERAL.—For purposes of this
 11 section, the term ‘eligible long-term care pre-
 12 miums’ means the amount paid during a tax-
 13 able year for any long-term care insurance con-
 14 tract (as defined in section 818A) covering an
 15 individual, to the extent such amount does not
 16 exceed the limitation determined under the fol-
 17 lowing table:

“In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$ 200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

18 “(B) INDEXING.—

19 “(i) IN GENERAL.—In the case of any
 20 taxable year beginning in a calendar year
 21 after 1995, each dollar amount contained
 22 in paragraph (1) shall be increased by the

1 medical care cost adjustment of such
2 amount for such calendar year. If any in-
3 crease determined under the preceding sen-
4 tence is not a multiple of \$10, such in-
5 crease shall be rounded to the nearest mul-
6 tiple of \$10.

7 “(ii) MEDICAL CARE COST ADJUST-
8 MENT.—For purposes of clause (i), the
9 medical care cost adjustment for any cal-
10 endar year is the percentage (if any) by
11 which—

12 “(I) the medical care component
13 of the Consumer Price Index (as de-
14 fined in section 1(f)(5)) for August of
15 the preceding calendar year, exceeds

16 “(II) such component for August
17 of 1994.”

18 (3) Paragraph (6) of section 213(d) of such
19 Code is amended—

20 (A) by striking “subparagraphs (A) and
21 (B)” and inserting “subparagraphs (A), (B),
22 and (C)”, and

23 (B) by striking “paragraph (1)(C)” in sub-
24 paragraph (A) and inserting “paragraph
25 (1)(D)”.

1 (4) Paragraph (7) of section 213(d) of such
2 Code is amended by striking “subparagraphs (A)
3 and (B)” and inserting “subparagraphs (A), (B),
4 and (C)”.

5 **SEC. 304. CERTAIN EXCHANGES OF LIFE INSURANCE CON-**
6 **TRACTS FOR LONG-TERM CARE INSURANCE**
7 **CONTRACTS NOT TAXABLE.**

8 Subsection (a) of section 1035 of the Internal Reve-
9 nue Code of 1986 (relating to certain exchanges of insur-
10 ance contracts) is amended by striking the period at the
11 end of paragraph (3) and inserting “; or”, and by adding
12 at the end thereof the following new paragraph:

13 “(4) a contract of life insurance or an endow-
14 ment or annuity contract for a long-term care insur-
15 ance contract (as defined in section 818A).”

16 **SEC. 305. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**
17 **WITHDRAWN FROM INDIVIDUAL RETIRE-**
18 **MENT PLANS OR 401(k) PLANS FOR LONG-**
19 **TERM CARE INSURANCE.**

20 (a) IN GENERAL.—Part III of subchapter B of chap-
21 ter 1 of the Internal Revenue Code of 1986 (relating to
22 items specifically excluded from gross income) is amended
23 by redesignating section 137 as section 138 and by insert-
24 ing after section 136 the following new section:

1 **“SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT**
2 **ACCOUNTS AND SECTION 401(k) PLANS FOR**
3 **LONG-TERM CARE INSURANCE.**

4 “(a) GENERAL RULE.—The amount which would
5 (but for this section) be includible in the gross income of
6 an individual for the taxable year by reason of distribu-
7 tions from any individual retirement account or section
8 401(k) plan shall be reduced (but not below zero) by the
9 aggregate premiums paid by such individual during such
10 taxable year for any long-term care insurance contract (as
11 defined in section 818A) for the benefit of such individual
12 or the spouse of such individual.

13 “(b) DEFINITIONS.—For purposes of this section—

14 “(1) INDIVIDUAL RETIREMENT ACCOUNT.—The
15 term ‘individual retirement account’ has the mean-
16 ing given such term by section 408(a).

17 “(2) SECTION 401(k) PLAN.—The term ‘section
18 401(k) plan’ means any employer plan which meets
19 the requirements of section 401(a) and which in-
20 cludes a qualified cash or deferred arrangement (as
21 defined in section 401(k)).

22 “(c) SPECIAL RULES FOR SECTION 401(k) PLANS.—

23 “(1) WITHDRAWALS CANNOT EXCEED ELEC-
24 TIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR
25 DEFERRED ARRANGEMENT.—This section shall not
26 apply to any distribution from a section 401(k) plan

1 to the extent the aggregate amount of such distribu-
2 tions for the use described in subsection (a) exceeds
3 the aggregate employer contributions made pursuant
4 to the employee's election under section 401(k)(2).

5 “(2) WITHDRAWALS NOT TO CAUSE DISQUALI-
6 FICATION.—A plan shall not be treated as failing to
7 satisfy the requirements of section 401, and an ar-
8 rangement shall not be treated as failing to be a
9 qualified cash or deferred arrangement (as defined
10 in section 401(k)(2)), merely because under the plan
11 or arrangement distributions are permitted which
12 are excludable from gross income by reason of this
13 section.”

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 401(k) of such Code is amended by
16 adding at the end the following new paragraph:

17 “(11) CROSS REFERENCE.—

“For provision permitting tax-free withdrawals
for payment of long-term care premiums, see section
137.”

18 (2) Section 408(d) of such Code is amended by
19 adding at the end the following new paragraph:

1 “(8) CROSS REFERENCE.—

“For provision permitting tax-free withdrawals from individual retirement accounts for payment of long-term care premiums, see section 137.”

2 (3) The table of sections for such part III is
3 amended by striking the last item and inserting the
4 following new items:

“Sec. 137. Distributions from individual retirement accounts and section 401(k) plans for long-term care insurance.
“Sec. 138. Cross references to other Acts.”

5 **SEC. 306. TAX TREATMENT OF ACCELERATED DEATH BENE-**
6 **FITS UNDER LIFE INSURANCE CONTRACTS.**

7 Section 101 of the Internal Revenue Code of 1986
8 (relating to certain death benefits) is amended by adding
9 at the end thereof the following new subsection:

10 “(g) TREATMENT OF CERTAIN ACCELERATED
11 DEATH BENEFITS.—

12 “(1) IN GENERAL.—For purposes of this sec-
13 tion, any amount paid or advanced to an individual
14 under a life insurance contract on the life of an in-
15 sured—

16 “(A) who is a terminally ill individual, or

17 “(B) who is a chronically ill individual (as
18 defined in section 818A(c)(2)) who is confined
19 to a qualified facility (as defined in section
20 818A(c)(3)),

21 shall be treated as an amount paid by reason of the
22 death of such insured.

1 “(2) TERMINALLY ILL INDIVIDUAL.—For pur-
2 poses of this subsection, the term ‘terminally ill indi-
3 vidual’ means an individual who has been certified
4 by a physician as having an illness or physical condi-
5 tion which can reasonably be expected to result in
6 death in 12 months or less.

7 “(3) PHYSICIAN.—For purposes of this sub-
8 section, the term ‘physician’ has the meaning given
9 to such term by section 213(d)(4).”

10 **SEC. 307. EFFECTIVE DATE.**

11 (a) IN GENERAL.—The amendments made by this
12 title shall apply to taxable years beginning after December
13 31, 1995.

14 (b) CONTINUATION OF EXISTING POLICIES.—In the
15 case of any policy issued before January 1, 1996, which
16 met the long-term care insurance requirements of the
17 State in which the policy was situated at the time the policy
18 was issued—

19 (1) such policy shall be treated for purposes of
20 the Internal Revenue Code of 1986 as a long-term
21 care insurance contract (as defined in section
22 818A(b) of such Code), and

23 (2) services provided under such policy shall be
24 treated for such purposes as qualified long-term care

1 services (as defined in section 818A(c) of such
2 Code).

3 (c) EXCHANGES OF EXISTING POLICIES.—If, after
4 the date of enactment of this Act and before January 1,
5 1996, a policy providing for long-term care insurance cov-
6 erage is exchanged solely for a long-term care insurance
7 contract (as defined in section 818A(b) of the Internal
8 Revenue Code of 1986), no gain or loss shall be recognized
9 on the exchange. If, in addition to a long-term care insur-
10 ance contract, money or other property is received in the
11 exchange, then any gain shall be recognized to the extent
12 of the sum of the money and the fair market value of the
13 other property received. For purposes of this paragraph,
14 the cancellation of a policy providing for long-term care
15 insurance coverage and reinvestment of the cancellation
16 proceeds in a qualified long-term care insurance policy
17 within 60 days thereafter shall be treated as an exchange.

18 (d) ISSUANCE OF CERTAIN RIDERS PERMITTED.—
19 For purposes of determining whether section 7702 or
20 7702A of the Internal Revenue Code of 1986 applies to
21 any contract, the issuance, whether before, on, or after
22 December 31, 1995, of a rider on a life insurance contract
23 providing long-term care insurance coverage shall not be
24 treated as a modification or material change of such con-
25 tract.

1 (e) TREASURY TO SPECIFY TAX TREATMENT OF
2 LONG-TERM CARE CONTRACTS WHICH DO NOT MEET
3 STANDARDS.—Not later than October 1, 1995, the Sec-
4 retary of the Treasury shall submit to the Congress a re-
5 port detailing the Department of the Treasury’s interpre-
6 tation of the treatment under the Internal Revenue Code
7 of 1986 of contracts which provide long-term care services
8 but which are not long-term care insurance contracts (as
9 defined by section 818A(b) of such Code).

10 **TITLE IV—SENIOR CITIZEN**
11 **COMMUNITIES**

12 **SEC. 401. DEFINITION OF HOUSING FOR OLDER PERSONS.**

13 Subparagraph (C) of section 807(b)(2) of the Fair
14 Housing Act (42 U.S.C. 3607(b)(2)) is amended to read
15 as follows:

16 “(C) that meets the following requirements:

17 “(i) The housing is in a facility or commu-
18 nity intended and operated for the occupancy of
19 at least 80 percent of the occupied units by at
20 least one person 55 years of age or older.

21 “(ii) The housing facility or community
22 publishes and adheres to policies and proce-
23 dures that demonstrate the intent required
24 under clause (i), whether or not such policies

1 and procedures are set forth in the governing
2 documents of such facility or community.

3 “(iii) The housing facility or community
4 complies with rules made by the Secretary for
5 the verification of occupancy. Such rules shall
6 allow for that verification by reliable surveys
7 and affidavits and shall include examples of the
8 types of policies and procedures relevant to a
9 determination of compliance with the require-
10 ment of clause (ii). Such surveys and affidavits
11 shall be admissible in administrative and judi-
12 cial proceedings for the purposes of such
13 verification.”.

14 **SEC. 402. GOOD FAITH ATTEMPT AT COMPLIANCE DEFENSE**
15 **AGAINST CIVIL MONEY DAMAGES.**

16 Section 807(b) of the Fair Housing Act (42 U.S.C.
17 3607(b)) is amended by adding at the end the following:

18 “(5) An individual who engages in conduct with a
19 reasonable good faith reliance on the existence of the ex-
20 emption of this subsection relating to housing for older
21 persons is not personally liable for money damages for a
22 violation of this Act that such an exemption would have
23 vitiated. For the purposes of this paragraph, a person en-
24 gaged in the business of residential real estate trans-
25 actions is presumed to have such a good faith reliance if

1 that person has no actual knowledge that the facility or
2 community is not or will not be eligible for such exemption
3 and the facility or community gives such person a written
4 certification stating the compliance of the facility or com-
5 munity with the requirements for such exemption.”.

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